



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 14 2009

Jeff Timmer
Michigan Republican Party
520 Seymour Avenue
Lansing, Michigan 48933

RE: MURs 6171/6172
Kalamazoo County Democratic
Party Federal Committee and
Carolyn Cardwell, in her official
capacity as treasurer
Allegan County Democratic
Committee
Cooney for Congress Committee
and Robert Snyder, in his official
capacity as treasurer

Dear Mr. Timmer:

On September 1, 2009, the Federal Election Commission reviewed the allegations in your complaints dated January 21, 2009. In MUR 6171, the Commission found that on the basis of the information provided in your complaint, and information provided by the respondents, there is no reason to believe that the Kalamazoo County Democratic Party Federal Committee and Carolyn Cardwell, in her official capacity as treasurer, and the Cooney for Congress Committee and Robert Snyder, in his official capacity as treasurer, violated the Federal Election Campaign Act of 1971, as amended. In MUR 6172, the Commission voted to dismiss this matter and send a cautionary letter. Accordingly, on September 1, 2009, the Commission closed the file in these matters.

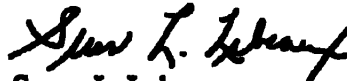
Documents related to the cases will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analyses, which more fully explain the Commission's findings are enclosed.

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Letter to Michigan Republican Party
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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,



Susan L. Lebeaux
Assistant General Counsel

Enclosures
Factual and Legal Analyses

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENT: Cooney for Congress Committee MURs: 6171/6172**
6 **and Robert Snyder, in his official**
7 **capacity as treasurer**
8

9 **I. INTRODUCTION**

10 These matters were generated by complaints filed with the Federal Election Commission
11 ("Commission") by the Michigan Republican Party. See 2 U.S.C. § 437g(a)(1). For the reasons
12 set forth below, the Commission found no reason to believe that the Cooney for Congress
13 Committee and Robert Snyder in his official capacity as treasurer ("Cooney Committee"),
14 violated the Federal Election Campaign Act of 1971, as amended (the "Act") in MUR 6171 and
15 decided to exercise its prosecutorial discretion and dismiss the complaint in MUR 6172, and
16 closed the files.

17 **II. FACTUAL AND LEGAL ANALYSES**

18 **A. MUR 6171**
19

20 **1. Factual Summary**

21 The complaint states that in its 2008 Post-General Report, the Kalamazoo County
22 Democratic Party Federal Committee and Carolyn Cardwell, in her official capacity as treasurer,
23 ("KCDP") reported a total of \$11,214.35 in anonymous cash contributions received on seven
24 separate occasions between October 14 and November 14, 2009, and alleges that the KCDP
25 either knew or should have known the identity of the contributors. The complaint cites to
26 Advisory Opinion 1991-20 (Call Interactive) for the proposition that contributions are "not
27 'anonymous' contributions for the purposes of 11 C.F.R. 110.4(c)(3)" if the contributors'
28 identities are able to be determined, and alleges that the contributions may have come from

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1 sources "not in compliance with the prohibitions and limitations of the" Act. MUR 6171
2 Complaint at 1. The complaint further alleges that because the KCDP contributed a total of
3 \$5,000 to the Cooney Committee between October 18 and October 31, 2008,¹ the funds used to
4 contribute to, and accepted by, the Cooney Committee may not have been federally compliant in
5 violation of the Act and 11 C.F.R. § 110.9.

6 The Cooney Committee responded that it received the contribution, which it states is the
7 maximum amount allowed by law, and asserts that the KCDP is not a prohibited source and it
8 has "no knowledge of the KCDP's fundraising efforts." Cooney Committee Response at 1.

9 **2. Legal Analysis**

10 There do not appear to be violations of the Act concerning the amounts, sources or
11 reporting of the contributions. Political committees are required to keep an account of the name
12 and address of person who makes any contribution in excess of \$50, together with the date and
13 amount of any such contribution. 2 U.S.C. § 432(c). There is no information that contributions
14 that the Cooney Committee received from the KCDP came from a prohibited source. Without
15 context or any other specific facts, this allegation is merely speculative and does not provide a
16 sufficient threshold to support reason to believe findings. See Statement of Reasons of
17 Commissioners Mason, Smith, Sandstrom and Thomas in MUR 44960 (Hillary Rodham Clinton,
18 issued Dec. 21, 2000). Moreover, the KCDP, as a multicandidate committee, could legally
19 contribute \$5,000 to the Cooney Committee. See 2 U.S.C. § 441a(a)(2)(A); 11 C.F.R.
20 §§ 110.2(a)(2)(b), 110.3(b)(3).

¹ Commission filings show the KCDP made, and the Cooney Committee accepted, three separate contributions in October 2008 totaling \$5,000: \$1,000 on October 18, \$1,700 on October 22, and \$2,300 on October 31.

B. MUR 6172

1. Factual Summary

The complaint alleges that the Allegan County Democratic Committee ("ACDC") contributed \$1,000 to the Cooney Committee on October 1, 2008, which the Cooney Committee never reported.

The Cooney Committee response states it tried to return the second \$1,000 contribution upon its receipt, but was unable to contact the ACDC's treasurer, who was on vacation. The Cooney Committee states it then tried to report the second contribution, but was unable to do so because the Commission's software "does not allow a State Committee ID number to be used." Cooney Committee Response at 1. The Cooney Committee did not elaborate, but it was evidently able to report the first \$1,000 contribution and the eventual refund of the second \$1,000 contribution. The Cooney Committee claims it used its "best efforts" to contact the ACDC's treasurer and kept enough of an account balance to be able to refund the second contribution from late 2008 through February 2009. The Cooney Committee states that the ACDC's treasurer finally contacted it on February 21, 2009, and the second contribution was refunded shortly thereafter.

The Cooney Committee reported the receipt of the first contribution in its original and amended 2008 October Quarterly Reports, but never reported the receipt of the second contribution. It reported the refund of the second contribution as being made on February 22, 2009, in its 2009 April Quarterly Report. There is no record of the Cooney Committee filing a 48-Hour Report of Contribution for the October 20, 2008, contribution.

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1 **2. Legal Analysis**

2 The Cooney Committee was required to report all contributions received, and to file 48-
3 hour notices of all contributions of \$1,000 or more that it received after the 20th day before, but
4 more than 48 hours before, a federal election. 2 U.S.C. §§ 434(a)(6)(A), 434(b)(2)(C), (I);
5 11 C.F.R. § 104.5(f). The Cooney Committee failed to report the ACDC's second \$1,000
6 contribution from the ACDC and to file a 48-Hour Report of Contribution for the October 20,
7 2008, contribution.² Therefore, it appears that the Cooney Committee violated 2 U.S.C.
8 §§ 434(a)(6)(A) and (b)(2)(C).

9 Despite the apparent violations by the Cooney Committee's failure to file a 48-Hour
10 Report of Contribution concerning the ACDC's second \$1,000 contribution and failure to report
11 the contribution in its 2008 Post-General Election Report, it appears to have always intended to
12 refund it and did so, and it properly reported the refund.

13 Therefore, the Commission found no reason to believe that the Cooney Committee
14 violated the Act in MUR 6171 and decided to exercise its prosecutorial discretion and dismiss
15 the complaint in MUR 6172, and closed the files. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

² Despite the Cooney Committee's claim that it was "thwarted by the FEC's reporting software" because it did not allow a state committee identification number to be used, Cooney Committee Response at 1, according to the Reports Analysis Division, the state number has no bearing on the reporting of contributions using the Commission's reporting software and the Cooney Committee could have just left the space for the identification number blank.

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENT: Kalamazoo County Democratic Party** **MUR: 6171**
6 **Federal Committee and Carolyn Cardwell,**
7 **in her official capacity as treasurer**
8

9 **I. INTRODUCTION**

10 This matter was generated by a complaint filed with the Federal Election Commission
11 ("Commission") by the Michigan Republican Party. See 2 U.S.C. § 437g(a)(1). For the reasons
12 set forth below, the Commission has found that there is no reason to believe that the Kalamazoo
13 County Democratic Party Federal Committee and Carolyn Cardwell, in her official capacity as
14 treasurer, ("KCDP") violated the Federal Election Campaign Act of 1971, as amended (the
15 "Act").

16 **II. FACTUAL SUMMARY**

17 The complaint states that in its 2008 Post-General Report, the KCDP reported a total of
18 \$11,214.35 in anonymous cash contributions received on seven separate occasions between
19 October 14 and November 14, 2009, and alleges that the KCDP either knew or should have
20 known the identity of the contributors. The complaint cites to Advisory Opinion 1991-20 (Call
21 Interactive) for the proposition that contributions are "not 'anonymous' contributions for the
22 purposes of 11 C.F.R. 110.4(c)(3)" if the contributors' identities are able to be determined, and
23 alleges that the contributions may have come from sources not in compliance with the
24 prohibitions and limitations of the Act. MUR 6171 Complaint at 1. The complaint further
25 alleges that because the KCDP contributed a total of \$5,000 to the Cooney for Congress
26 Committee and Robert Snyder in his official capacity as treasurer ("Cooney Committee"),

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1 between October 18 and October 31, 2008,¹ the funds used to contribute to, and accepted by, the
2 Cooney Committee may not have been federally compliant in violation of the Act and 11 C.F.R.
3 § 110.9.

4 The KCDP responded that it received many anonymous cash contributions through
5 "suggested donations" for Barack Obama merchandise that it bought and brought to its
6 headquarters, including t-shirts (\$10), yard signs (\$5), buttons (\$3) and bumper stickers (\$1), and
7 that it was not required to collect identifying information on contributors of less than \$50,
8 including those who made "suggested donations" for merchandise. KCDP Response at 1. The
9 KCDP also states that it made a \$5,000 contribution, the maximum amount allowed, to the
10 Cooney Committee, and reported that information. *Id.*

11 **III. LEGAL ANALYSIS**

12 There do not appear to be violations of the Act concerning the amounts, sources or
13 reporting of the contributions. Political committees are required to keep an account of the name
14 and address of person who makes any contribution in excess of \$50, together with the date and
15 amount of any such contribution. 2 U.S.C. § 432(c)(2). The KCDP states in its response that it
16 did not accept \$50 or more from any contributor, and we have no information to the contrary.
17 Further, the KCDP's aggregating of a number of anonymous contributions under \$50 for
18 reporting purposes appears to be in compliance with 11 C.F.R. 102.9(a). *See* MUR 5560 (Case
19 for Congress) FGCR at 8 (citing AOs 1981-48 (Muskegon Republicans) and 1980-99
20 (Republican Roundup)).

¹ Commission filings show the KCDP made, and the Cooney Committee accepted, three separate contributions in October 2008 totaling \$5,000: \$1,000 on October 18, \$1,700 on October 22, and \$2,300 on October 31.

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1 While the complaint cited AO 1991-20 (Call Interactive) for the proposition that a
2 contribution is not anonymous if the contributor can be identified, AO 1991-20 is distinguishable
3 because it involved a 900 telephone call service to be used for soliciting and collecting
4 contributions *via* electronic means. As the Commission stated in that opinion, "900 line
5 fundraising programs do not involve truly anonymous contributions such as the small cash
6 contributions posited in [Advisory Opinion 1980-99]." The situation in this matter involves
7 actual cash contributions (*i.e.*, currency), which are specifically provided for under the
8 regulations, and which are specifically permitted to be made anonymously provided that each
9 such contribution does not exceed \$50. 11 C.F.R. 110.4(c)(3).

10 There is no information that the KCDP accepted contributions over \$50 that were not
11 properly reported or that any of the contributions came from prohibited sources. Without context
12 or any other specific facts, this allegation is merely speculative and does not provide a sufficient
13 threshold to support reason to believe findings. See Statement of Reasons of Commissioners
14 Mason, Smith, Sandstrom and Thomas in MUR 44960 (Hillary Rodham Clinton, issued Dec. 21,
15 2000). There is also no information, other than mere speculation by the complainant, that
16 contributions that the Cooney Committee received from the KCDP came from a prohibited
17 source. See *id.* Moreover, the KCDP, as a multicandidate committee, could legally contribute
18 \$5,000 to the Cooney Committee. See 2 U.S.C. § 441a(a)(2)(A); 11 C.F.R. §§ 110.2(a)(2)(b),
19 110.3(b)(3).

20 Therefore, the Commission has found that there is no reason to believe that the KCDP
21 violated the Act, and close the file.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Allegan County Democratic Committee¹ MUR: 6172

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by the Michigan Republican Party. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission dismissed the complaint alleging that the Allegan County Democratic Committee ("ACDC") violated the Federal Election Campaign Act of 1971, as amended (the "Act").

II. FACTUAL SUMMARY

The complaint alleges that the ACDC contributed \$1,000 to the Cooney for Congress Committee and Robert Snyder in his official capacity as treasurer ("Cooney Committee"), on October 1, 2008, and another \$1,000 on October 20, 2008, for a total contribution amount of \$2,000 during 2008, but failed to register as a political committee and file reports with the Commission within 10 days of acquiring political committee status.

The ACDC responded that upon receiving the complaint, it contacted the Cooney Committee, which returned the second \$1,000 contribution and brought the ACDC under the amount which would have required it to register with and report to the Commission as a political committee. The ACDC also states it was "very sorry" that, due to its "inexperience," "over enthusiasm," and failure to review the "contribution rules one last time," it violated the Act; it

¹ While the response states the respondent is the Allegan County Democratic Committee, it is on Allegan County Democratic Party letterhead, the attached copy of the refund check attached is made out to that entity, and it appears the titles "Committee" and "Party" may be used interchangeably by the organization.

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1 maintains it is now "properly educated" about the rules. ACDC Response at 1. A copy of the
2 refund check and affidavit from the ACDC's treasurer is attached to the response.

3 **III. LEGAL ANALYSIS**

4 The ACDC, which is listed as a "local party" on the Michigan State Democratic Central
5 Committee ("MSDCC") website, appears to be a "local committee of a political party" of the
6 MSDCC. 11 C.F.R. § 100.14(b) (A local party committee is one that, by virtue of a political
7 party's bylaws, "is part of the official party structure, and is responsible for the day-to-day
8 operation of the political party . . ." at the local level). Any local committee of a political party
9 which "makes contributions [for the purpose of influencing a federal election] aggregating in
10 excess of \$1,000 during a calendar year" meets the threshold definition for a political committee.
11 2 U.S.C. §§ 431(4)(C), (8)(A)(i); 11 C.F.R. §§ 100.5(c), 100.14(b), 100.52(a). Political
12 committees must file a Statement of Organization with the Commission within 10 days of
13 meeting the threshold definition found in 2 U.S.C. § 431(4)(C), and must thereafter file reports
14 that comply with 2 U.S.C. § 434. 2 U.S.C. §§ 433(a), 434(a)(1); *see also* 11 C.F.R. §§ 102.1(d),
15 104.1. Political committees, including authorized candidate committees, must report all
16 contributions and refunds of contributions. 2 U.S.C. § 434(b)(2), (4); 11 C.F.R. § 104.3.

17 The ACDC's contributions to the Cooney Committee exceeded \$1,000 in a calendar year,
18 but it did not file a Statement of Organization or any reports with the Commission in 2008.
19 Thus, it appears that the ACDC violated 2 U.S.C. §§ 433(a) and 434(a)(1). However, the money
20 was refunded, albeit several months later, and this refund brought the ACDC below the
21 registering and reporting threshold.

22 Therefore, the Commission has exercised its prosecutorial discretion and decided to
23 dismiss the complaint and close the file. *See Heckler v. Chaney*, 470 U.S. 821 (1985).